

**REMARKS**

Claims 1-17 were examined in the Final Office Action mailed April 28, 2006, with claims 18-49 standing withdrawn pursuant to Election/Restriction Requirement.

Claims 1-17 continue to stand rejected under 35 U.S.C. § 103(a) as unpatentable over the Applicant's U.S. Patent No. 5,628,960 to Beer, *et al.* ("the '960 Patent").

In the November 11, 2005 Office Action, the Examiner provided the helpful suggestion that a § 1.132 Declaration showing that unexpected results are achieved by the present invention could be persuasive to overcome the rejection based Dr. Beer's prior patent. In the currently pending Final Office Action, the Examiner indicated that Dr. Beer's Declaration filed February 10, 2006 has been fully considered, but that a more convincing submission might be one that shows actual data reflecting the unexpected results, such as a comparison of a test strip produced by the cited prior art and a test strip produced with the present invention's new approach to membrane production.

The Applicant appreciates the Examiner's further helpful suggestion. In order to provide the suggested actual test results, the Applicant has carried out a comparative test which demonstrates the surprising and unexpected effect of the present membrane production approach. The attached sheet contains two photographs of the actual test results. In Figure 1, a test strip prepared according to Dr. Beer's '960 Patent, having a pore size of 8  $\mu\text{m}$ , is shown. A migration test with a phenol red test liquid was performed on this test strip. The

test strip had a migration time of about 130 sec/40 mm, however, as can be seen in the photograph, the test line is diffuse and has a substantially non-uniform dividing line, making it difficult, or even impossible, to exactly determine test substances.

In Figure 2, a test strip prepared according to the present invention is shown. This test strip also has a pore size of 8  $\mu\text{m}$ , and was subjected to the same migration test with a phenol red test liquid. The test strip also had a migration time of about 130 sec/40 mm, however, the Fig. 2 photograph shows the superior results obtained over the prior art membrane, with the test line having a much more precise and highly uniform dividing line. This significantly better performance permits exact determination of test substances to a degree not possible with the prior art membrane.

In view of the enclosed Figures 1 and 2 reflecting the actual results of the comparative test, it is apparent that the membrane prepared according to the process of the present invention is surprisingly and unexpectedly superior over a membrane prepared according to Dr. Beer's '960 Patent. These results are consistent with, and fully support, the testimony provided by Dr. Beer in his February Declaration.

In view of the actual test results, Dr. Beer's previous comments regarding the state of the art and the expectations of those of skill, and the evidence of non-obviousness (e.g., the lack of pursuit of the present invention despite great economic and technical motivation), the Applicants respectfully submit that one of ordinary skill would not have found the present inventive process and

resulting membrane to be an obvious development from the Dr. Beer's '960 Patent. The Applicant therefore respectfully requests reconsideration and withdrawal of the pending rejection based on this reference.

**CONCLUSION**

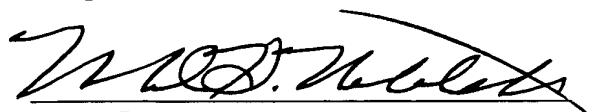
The Applicants respectfully submit that claims 1-17 are allowable over the Beer reference. Early and favorable consideration and issuance of a Notice of Allowance for claims 1-17 is respectfully requested.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 010743.50685US).

Respectfully submitted,

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